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Attorney for Defendant Betty J. Lewis

**UNITED STATES DISTRICT COURT**

**DISTRICT OF ARIZONA**

CAROL ANN AGSTER, personal  
representative of the Estate of  
CHARLES J. AGSTER, III, deceased;  
CHARLES J. AGSTER, JR., and  
CAROL ANN AGSTER, surviving  
parents of CHARLES J. AGSTER, III,

Plaintiffs,  
vs.

MARICOPA COUNTY, a public entity;  
MARICOPA COUNTY SHERIFF'S  
OFFICE, a division of Maricopa  
County; MARICOPA COUNTY  
DEPARTMENT OF CORRECTIONAL  
HEALTH SERVICES, a division of  
Maricopa County; JOSEPH M.  
ARPAIO, MARICOPA COUNTY  
SHERIFF; BETTY J. LEWIS, and  
JOHN DOE LEWIS, her husband;  
BARUCH A. REUSCH, and JANE

No. CV 02-1686 PHX-JAT

**NOTICE OF FILING  
DEFENDANTS' SEPARATE  
VERDICT FORMS AND SPECIAL  
INTERROGATORIES**

DOE REUSCH, his wife, LEAH R.  
COMPTON, and JOHN DOE  
COMPTON, her husband; KRISTINE  
KEMPER, and JOHN DOE KEMPER,  
her husband; AMANDA S.  
GARRISON, and JOHN DOE  
GARRISON, her husband; SUSAN E.  
FISHER, and JOHN DOE FISHER,  
her husband; RICK NULPH, and  
JANE DOE NULPH, his wife;  
KATHERINA BROKSCHMIDT, and  
JOHN DOE BROKSCHMIDT, her  
husband; MICHAEL C. WILKINS, and  
JANE DOE WILKINS, his wife;  
LAURA SODEMAN; and JOHN DOE  
SODEMAN, her husband; JOHN  
DOES I-X and JANE DOES I-X,

Defendants.

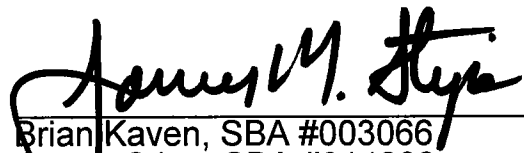
Pursuant to the Court's Order Setting Final Pretrial Conference, the defendants' hereby provide notice of filing their separate forms of verdict and special interrogatories by filing them with the Clerk of the Court and e-mailing them to chambers at [teilborg\\_chambers@azd.uscourts.gov](mailto:teilborg_chambers@azd.uscourts.gov).

Defendants' proposed verdict forms are attached hereto as Exhibit "1," and include civil rights and negligence verdict forms. Defendants' proposed special interrogatories are attached hereto as Exhibit "2," and include interrogatories relating to A.R.S. § 12-711, vicarious liability, and drug use.

RESPECTFULLY SUBMITTED this 14<sup>th</sup> day of December, 2005.

BURCH & CRACCHIOLO, P.A.


By:



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By:

  
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Attorneys for Defendants  
Maricopa County and Maricopa County  
Department of Correctional Health  
Services (a non-jural entity)

LAW OFFICES OF RICHARD L. STROHM, P.C.

By:

  
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Attorneys for Defendant  
Betty J. Lewis, R.N.

ORIGINAL electronically transmitted  
to the Clerk's Office using the CM/ECF  
System for filing and transmittal of a  
Notice of Electronic Filing this 14<sup>th</sup>  
day of December, 2005.

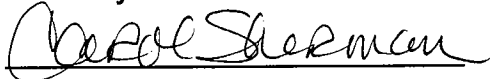
COPY of the foregoing delivered  
this 14<sup>th</sup> day of December, 2005, to:

Honorable James A. Teilborg  
United States District Judge  
United States District Court, District of Arizona  
401 W. Washington  
Phoenix AZ 85003

COPY transmitted electronically on  
December 9, 2005 to:

Honorable James A. Teilborg  
United States District Judge  
United States District Court, District of Arizona  
401 W. Washington  
Phoenix AZ 85003

Michael C. Manning, Esq.  
Sean B. Berberian, Esq.  
Stinson Morrison Hecker, LLP  
1850 North Central Avenue, Suite 2100  
Phoenix, AZ 85004-4584  
Attorneys for Plaintiffs



# **EXHIBIT “1”**

## IN THE UNITED STATES DISTRICT COURT

## FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>VERDICT FORM NO. 1</b>
v.	)	
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

With respect to plaintiffs' civil rights claim for excessive force and failure to intercede to stop excessive force against the detention officers, we, the Jury, duly empaneled and sworn in the above entitled action, upon our oaths, do hereby find (**mark one box for each officer**):

<u>Name of Officer</u>	<u>For the Officer</u>	<u>Against the Officer</u>
Michael Wilkins	For <input type="checkbox"/> <u>or</u>	Against <input type="checkbox"/> and award plaintiffs ( <b><u>circle one letter: A or B</u></b> ): A. Nominal damages <u>OR</u> B. Compensatory damages
Kristine Kemper	For <input type="checkbox"/> <u>or</u>	Against <input type="checkbox"/> and award plaintiffs ( <b><u>circle one letter: A or B</u></b> ): A. Nominal damages <u>OR</u> B. Compensatory damages

Amanda Garrison	For <input type="checkbox"/>	<u>or</u>	Against <input type="checkbox"/> and award plaintiffs ( <b><u>circle one letter: A or B</u></b> ): A. Nominal damages <u>OR</u> B. Compensatory damages
Laura Sodeman	For <input type="checkbox"/>	<u>or</u>	Against <input type="checkbox"/> and award plaintiffs ( <b><u>circle one letter: A or B</u></b> ): A. Nominal damages <u>OR</u> B. Compensatory damages
Leah Compton	For <input type="checkbox"/>	<u>or</u>	Against <input type="checkbox"/> and award plaintiffs ( <b><u>circle one letter: A or B</u></b> ): A. Nominal damages <u>OR</u> B. Compensatory damages
Katherina Brokschmidt	For <input type="checkbox"/>	<u>or</u>	Against <input type="checkbox"/> and award plaintiffs ( <b><u>circle one letter: A or B</u></b> ): A. Nominal damages <u>OR</u> B. Compensatory damages
Eric Nulph	For <input type="checkbox"/>	<u>or</u>	Against <input type="checkbox"/> and award plaintiffs ( <b><u>circle one letter: A or B</u></b> ): A. Nominal damages <u>OR</u> B. Compensatory damages
Baruch Reusch	For <input type="checkbox"/>	<u>or</u>	Against <input type="checkbox"/> and award plaintiffs ( <b><u>circle one letter: A or B</u></b> ): A. Nominal damages <u>OR</u> B. Compensatory damages

Susan Fisher

For ☐ or

Against ☐ and award plaintiffs  
(***circle one letter: A or B***):

A. Nominal damages

**OR**

B. Compensatory damages

SIGNED: \_\_\_\_\_ (Foreperson)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>VERDICT FORM NO. 2</b>
v.	)	
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

With respect to plaintiffs' civil rights claim against the Maricopa County Sheriff for deliberate indifference in training on considering medical conditions in determining whether to admit a detainee into the jail, we, the Jury, duly empaneled and sworn in the above entitled action, upon our oaths, do hereby find (**mark one box**):

For the Maricopa Sheriff

Against the Maricopa Sheriff

For ☐ or

Against ☐ and award plaintiffs  
(**circle one letter: A or B**):

A. Nominal damages

**OR**

B. Compensatory damages

SIGNED: \_\_\_\_\_ (Foreperson)



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>VERDICT FORM NO. 3</b>
v.	)	
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

With respect to plaintiffs' civil rights claim against the Maricopa County Sheriff for deliberate indifference in training on the amount of force to use in putting someone in the restraint chair, we, the Jury, duly empaneled and sworn in the above entitled action, upon our oaths, do hereby find (**mark one box**):

For the Maricopa Sheriff

Against the Maricopa Sheriff

For ☐ or

Against ☐ and award plaintiffs (**circle one letter A or B**):

A. Nominal damages

**OR**

B. Compensatory damages

SIGNED: \_\_\_\_\_ (Foreperson)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>VERDICT FORM NO. 4</b>
v.	)	
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

With respect to plaintiffs' negligence claim against the Maricopa County Sheriff, we, the Jury, duly empaneled and sworn in the above entitled action, upon our oaths, do hereby find (**mark one box**):

For the Maricopa Sheriff

Against the Maricopa Sheriff

For ☐

**or**

Against ☐ and award compensatory damages

SIGNED: \_\_\_\_\_ (Foreperson)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
v.	)	<b>VERDICT FORM NO. 5</b>
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
Defendants.	)	
_____	)	

We, the Jury, duly empaneled and sworn in the above entitled action, upon our oaths, do hereby find plaintiffs' full compensatory damages to be in the amount of \$ \_\_\_\_\_. We find the relative degrees of fault for compensatory damages to be:

Plaintiff's decedent (Charles Agster III)	_____ %
Plaintiffs (Carol Agster and Charles Agster Jr.)	_____ %
Drug Dealer (Bob)	_____ %
City of Phoenix Police Officers	_____ %
Maricopa Sheriff and detention officers	_____ %
Maricopa County, CHS and Nurse Lewis	_____ %
TOTAL	100 %

SIGNED: \_\_\_\_\_ (Foreperson)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>VERDICT FORM NO. 6</b>
v.	)	
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

With respect to Plaintiffs' civil rights claims against Correctional Health Services of deliberately indifferent policies, customs, training and supervision in considering medical conditions in determining whether to admit or restrain a detainee in jail, we, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do hereby find (**mark one box**):

For Correctional Health  
Services

Against Correctional Health  
Services

For ☐

or

Against ☐ and award plaintiffs  
(**circle one letter: A or B**):

A. Nominal damages

**OR**

B. Compensatory damages

SIGNED: \_\_\_\_\_ (Foreperson)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>VERDICT FORM NO. 7</b>
v.	)	
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

With respect to plaintiffs' negligence claim against Correctional Health Services and Betty Lewis, we, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do hereby find (***mark one box***):

For Correctional Health  
Services and Betty Lewis

Against Correctional Health  
Services and Betty Lewis

For ☐

**or**

Against ☐ and award compensatory damages

SIGNED: \_\_\_\_\_ (Foreperson)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>VERDICT FORM NO. 8</b>
v.	)	
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

With respect to plaintiffs' civil rights claim against Betty Lewis for excessive force, we, the Jury, duly empaneled and sworn in the above entitled action, upon our oaths, do hereby find (**mark one box**):

For Betty Lewis

Against Betty Lewis

For ☐

**or**

Against ☐ and award plaintiffs  
(**circle one letter: A or B**):

A. Nominal damages

**OR**

B. Compensatory damages

SIGNED: \_\_\_\_\_ (Foreperson)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>VERDICT FORM NO. 9</b>
v.	)	
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

With respect to plaintiffs' civil rights claim against Betty Lewis for deliberate indifference in disregarding a substantial risk of harm to Mr. Agster, we, the Jury, duly empaneled and sworn in the above entitled action, upon our oaths, do hereby find (***mark one box***):

For Betty Lewis

Against Betty Lewis

For ☐

**or**

Against ☐ and award plaintiffs  
(***circle one letter: A or B***):

A. Nominal damages

**OR**

B. Compensatory damages

SIGNED: \_\_\_\_\_ (Foreperson)

**EXHIBIT “2”**



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>SPECIAL INTERROGATORY</b>
v.	)	<b>NO. 1</b>
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

Have defendants proved that plaintiffs' decedent Charles Agster III was under the influence of an intoxicating liquor or a drug and as a result of that influence he was at least fifty percent responsible for the accident or event that cause him harm? (***mark one box***)

Yes ☐ or No ☐

SIGNED: \_\_\_\_\_ (Foreperson)

COMMENT: A.R.S. § 12-711.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>SPECIAL INTERROGATORY</b>
v.	)	<b>NO. 2</b>
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

Have plaintiffs proved that Nurse Lewis was an agent of the Sheriff of Maricopa County during the time that plaintiffs' decedent Charles Agster III was at the Madison Street Jail? (**mark one box**)

Yes ☐ or No ☐

SIGNED: \_\_\_\_\_ (Foreperson)

**COMMENT:** 9<sup>th</sup> Circuit *Manual of Model Civil Jury Instructions* (2004 Edition), Instruction 6.4 (Agent and Principal – Definition).

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>SPECIAL INTERROGATORY</b>
v.	)	<b>NO. 3</b>
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

Please answer the following question **only** if you marked "yes" above  
that Nurse Lewis was an agent of the Sheriff of Maricopa County.

Have plaintiffs proved that Nurse Lewis was acting within the scope of  
her authority with the Sheriff of Maricopa County at the time that plaintiffs' decedent  
Charles Agster III was at the Madison Street Jail? (**mark one box**)

Yes ☐ **or** No ☐

SIGNED: \_\_\_\_\_ (Foreperson)

**COMMENT:** 9<sup>th</sup> Circuit *Manual of Model Civil Jury Instructions* (2004 Edition),  
Instruction 6.5 (Agent – Scope of Authority Defined).

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

CAROL ANN AGSTER, personal	)	
representative of the Estate of	)	
CHARLES J. AGSTER, III, deceased;	)	
CHARLES J. AGSTER, Jr., and CAROL	)	No. CV-02-1686-PHX-JAT
ANN AGSTER, surviving parents of	)	
CHARLES J. AGSTER, III,	)	
Plaintiffs,	)	<b>DEFENDANTS' REQUESTED</b>
	)	<b>SPECIAL INTERROGATORY</b>
v.	)	<b>NO. 4</b>
	)	
MARICOPA COUNTY, a public entity; et	)	
al.	)	
	)	
Defendants.	)	
_____	)	

Do you find that decedent, Charles Agster, III, abused  
methamphetamines and/or other drugs on August 6 and 7, 2001, and was therefore  
negligent? (*mark one box*)

Yes ☐                      or                      No ☐

SIGNED: \_\_\_\_\_ (Foreperson)

**COMMENT:**            Revised Arizona Jury Instructions (Civil) 4<sup>th</sup> Edition, Instructions  
                                Fault 5-11.